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FILED

APR 23 2007

U.S. DISTRICT COURT
BAY CITY, MICHIGAN

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PAID
#26712

H. RICHARD FRUEHAUF, JR.,

Plaintiff,

vs.

Case No.

07 - 11767

JUDGE THOMAS L. LUDINGTON

FRUEHAUF PRODUCTION COMPANY
LLC,

**MAGISTRATE JUDGE
CHARLES E. BINDER**

Defendant.

A civil action between the parties arising out of the transaction or occurrence alleged in this Complaint has been previously filed in this Court, and was dismissed pursuant to Fed. R. Civ. P. Rule 41(a)(1)(i). The Docket Number assigned to this previously filed and dismissed action was Docket No. 2:04-cv-74625-BAF-WC, and the Judge assigned to the action was the Honorable Bernard A. Friedman.

COMPLAINT TO CONFIRM ARBITRATION AWARD

Plaintiff, H. Richard Fruehauf, Jr. ("Dick Fruehauf"), through his attorneys, Clark Hill PLC, states as follows for his Complaint to Confirm Arbitration Award against Defendant Fruehauf Production Company, LLC ("FPC" or "Defendant"):

JURISDICTION AND VENUE

1. Plaintiff Dick Fruehauf is a citizen of the State of Florida.
2. Defendant FPC is a Michigan limited liability company that conducts business and maintains an office in Otsego County, Michigan at 990 South Wisconsin, Gaylord, Michigan 49735, and is a citizen of a state or states other than Florida. Jurisdiction is proper in this Court

pursuant to 18 U.S.C. § 1332, because there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.

3. Venue is proper in this Court pursuant to 18 U.S.C. § 1391(a), because Defendant FPC resides, is subject to personal jurisdiction, conducts business and maintains an office in Olsego County, Michigan.

COUNT I
CONFIRMATION OF ARBITRATION AWARD

4. The parties to this action entered into a written contract, which included a mandatory arbitration clause.

5. A dispute arose out of said contract, and Dick Fruehauf initiated litigation against Defendant FPC which was assigned to the Honorable Bernard A. Friedman (the "Litigation").

6. The parties to the Litigation agreed to submit the dispute to arbitration, and the Litigation was subsequently dismissed without prejudice.

7. From the later part of 2004, through July 2006, the claims raised by Dick Fruehauf against Defendant (among other claims) were arbitrated before a panel of arbitrators mutually agreed upon by the parties. This arbitration proceeding was managed by the American Arbitration Association ("AAA").

8. On July 7, 2006, the arbitrators delivered a written Arbitration Award (the "Award") on the claims raised by Dick Fruehauf against FPC, providing for, *inter alia*, payment of \$375,000.00, plus interest from FPC to Dick Fruehauf. A copy of the award is attached as Exhibit A. Counterclaims by FPC and other Respondents against Claimant Dick Fruehauf were deferred by the arbitration panel for further hearing.

9. The Award fully determined the entire claim by Dick Fruehauf against FPC and is ripe for confirmation by this Court pursuant to 9 U.S.C. § 9.

10. Pursuant to 9 U.S.C. § 9, the Award has been filed with the Clerk of the Court within one year after the Award was rendered.

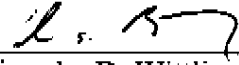
11. The Award is valid and should be confirmed by the Court.

WHEREFORE, Plaintiff Dick Fruehauf requests that this Court (1) issue an order confirming the Award as rendered by the arbitrators; (2) enter judgment on the confirmed Award; and (3) grant Dick Fruehauf his costs and any other just and equitable relief warranted under the circumstances of this case.

Respectfully submitted,

CLARK HILL PLC

By:



Timothy D. Wittlinger (P22490)
Jordan S. Bolton (P66309)
500 Woodward Avenue, Suite 3500
Detroit, Michigan 48226-3435
(313) 965-8300
Attorneys For H. Richard Fruehauf, Jr.

Date: April 20, 2007

MAGISTRATE JUDGE
CHARLES E. BINDER

CIVIL COVER SHEET

COUNTY IN WHICH ACTION AROSE: Otsego

11/99)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFF

DEFENDANT

H. RICHARD FRUEHAUF, JR.,

FRUEHAUF PRODUCTION COMPANY, I.L.C.,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Florida

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Otsego County, Michigan
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

CLARK HILL, PLC
Timothy D. Wittlinger (P22490)
Jordan S. Bolton (P66309)
500 Woodward Ave.
Suite 3500
Detroit, Michigan 48226
(313) 965-8300

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U. S. Government Plaintiff
2 U. S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
X 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only) PTF DEF

Citizen of This State

Citizen of Another X

Citizen or Subject of a Foreign Country

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Incorporated or Principal Place of Business in This State
Incorporated and Principal of Business in Another State
Foreign Nation

PTF DEF X

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

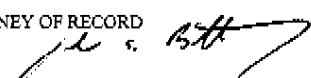
CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 1310 Airplane <input type="checkbox"/> 1315 Airplane Product Liability <input type="checkbox"/> 1320 Assault, Libel & Slander <input type="checkbox"/> 1330 Federal Employers' Liability <input type="checkbox"/> 1340 Marine <input type="checkbox"/> 1345 Marine Product Liability <input type="checkbox"/> 1350 Motor Vehicle <input type="checkbox"/> 1355 Motor Vehicle Product Liability <input type="checkbox"/> 1360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 1362 Personal Injury-Med. Malpractice <input type="checkbox"/> 1365 Personal Injury Product Liability <input type="checkbox"/> 1368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 1370 Other Fraud <input type="checkbox"/> 1371 Truth in Lending <input type="checkbox"/> 1380 Other Personal Property Damage <input type="checkbox"/> 1385 Property Damage Product Liability	<input type="checkbox"/> 1610 Agriculture <input type="checkbox"/> 1620 Other Food & Drug <input type="checkbox"/> 1625 Drug Related Seizure of Property USC 881 <input type="checkbox"/> 1630 Liquor Laws <input type="checkbox"/> 1640 R.R. & Truck <input type="checkbox"/> 1650 Airline Regs. <input type="checkbox"/> 1660 Occupational Safety/Health <input type="checkbox"/> 1690 Other	<input type="checkbox"/> 1422 Appeal <input type="checkbox"/> 28 USC 158 <input type="checkbox"/> 1423 Withdrawal <input type="checkbox"/> 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 11820 Copyrights <input type="checkbox"/> 11830 Patent <input type="checkbox"/> 11840 Trademark	<input type="checkbox"/> 1400 State Reapportionment <input type="checkbox"/> 1410 Antitrust <input type="checkbox"/> 1430 Banks and Banking <input type="checkbox"/> 1450 Commerce/ICC Rates <input type="checkbox"/> 1460 Deportation <input type="checkbox"/> 1470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 1810 Selective Service <input type="checkbox"/> 1850 Securities/Commodities Exchange <input type="checkbox"/> 1875 Customer Challenge <input type="checkbox"/> 12 USC 3410 <input type="checkbox"/> 1891 Agricultural Acts <input type="checkbox"/> 1892 Economic Stabilization Act <input type="checkbox"/> 1893 Environmental Matters <input type="checkbox"/> 1894 Energy Allocation Act <input type="checkbox"/> 1895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 1950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 1441 Voting <input type="checkbox"/> 1442 Employment <input type="checkbox"/> 1443 Housing/Accommodations <input type="checkbox"/> 1444 Welfare <input type="checkbox"/> 1440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Maudamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions	LABOR <input type="checkbox"/> 1710 Fair Labor Standards Act <input type="checkbox"/> 1720 Labor/Mgmt Relations <input type="checkbox"/> 1730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 1740 Railway Labor Act <input type="checkbox"/> 1790 Other Labor Litigation <input type="checkbox"/> 1791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 11861 HIA (1395(f)) <input type="checkbox"/> 11862 Black Lung (923) <input type="checkbox"/> 11863 DIWC/DIWW (405(g)) <input type="checkbox"/> 11864 SSID Title XVI <input type="checkbox"/> 11865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 11870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 11871 IRS Third Party <input type="checkbox"/> 26 USC 7609	

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

Transferred from
 X 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 another district (specify)
 6 Multidistrict Litigation
 7 Judge from Magistrate/Judgment
 Appeal to District

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
 Complaint to Confirm Arbitration Award

REQUESTED IN COMPLAINT: \$375,000.00	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ 375,000.00 plus interest	CHECK YES only if demanded in complaint: JURY DEMAND: YES <input checked="" type="checkbox"/> NO
VIII. RELATED CASE(S) IF ANY:		JUDGE: Bernard A. Friedman	DOCKET NUMBER: 2:04-cv-74625
DATE: April 19, 2007		SIGNATURE OF ATTORNEY OF RECORD /s/Jordan S. Bolton Jordan S. Bolton (P66309) 	

SUANT TO LOCAL RULE 83.1

1. Is this a case that has been previously discontinued or dismissed?

☒ YES
☐ NO

If yes, give the following information:

Court: USDC Eastern District of Michigan, Southern Division

Case No.: 2:04-cv-74625-BAF-WC

Judge: Bernard A. Friedman

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ YES
☒ NO

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes: